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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION  
10

11 UNITED STATES OF AMERICA,	)	CR 07-0295 MAG
	)	
12 Plaintiff,	)	
	)	JOINT PROPOSED VOIR DIRE
13 v.	)	
	)	Pretrial Date: April 1, 2008
14 NICOLE LEA MAYS,	)	Time: 2:00 p.m.
	)	Court: The Honorable Elizabeth
15 Defendant.	)	D. Laporte
	)	

17 Pursuant to this Court's order, the parties respectfully submit the following  
18 proposed questions for use in the voir dire examination of prospective jurors in the above-  
19 captioned case.

- 20 1. This cases involves allegations that the defendant Nicole Lea Mays  
21 possessed a controlled substance, to wit: heroin and marihuana.  
22 a. Do you know the defendant?  
23 b. Do you know anything about the case?  
24 c. If you know anything about the case, and if selected to serve as a  
25 juror, will you be able to set aside this prior information and decide the case solely  
26 on the evidence presented in the courtroom?  
27 d. Is there anything about the prior information that you possess that  
28

1 would prevent you from being a fair and impartial juror for both sides?

2 2. If you are chosen to serve as a juror in this case you must determine the  
3 believability or credibility of each witness. I will instruct you as to the factors you should  
4 consider in assessing a witness's credibility.

5 a. One or more law enforcement officers may testify in this case. Will  
6 you give more credit to the testimony of a law enforcement officer  
7 than to any other witness? Will you give less credit to the testimony  
8 of a law enforcement officer than to any other witness?

9 3. Have you or any member of your family ever been involved in any  
10 controversy or lawsuit with the United States government?

11 4. Have you or any member of your family ever been involved in any  
12 controversy or lawsuit with another person or business either as plaintiff or defendant?

13 5. Have you ever served on a trial jury? *[If there are any affirmative*  
14 *responses:]*

15 a. What kind of case?

16 b. Did the jury reach a verdict?

17 c. Is there anything about your prior jury service that would make you  
18 unable to be fair and impartial to both sides of this case?

19 6. Have you, any family member, or close friend been arrested, charged, or  
20 convicted of a criminal offense? *[If there are any affirmative responses:]*

21 a. What was the crime?

22 b. Is there anything about the experience that would make you unable  
23 to be fair and impartial to both sides of this case?

24 7. Have you or any member of your family ever been prosecuted for any  
25 criminal offense?

26 8. Have you, any family member, or close friend ever been the victim of a  
27 crime? *[If there are any affirmative responses:]*

28 a. What was the crime?

b. Is there anything about the experience that would make you unable to be fair and impartial to both sides of this case?

9. Have you, any family member, or close friend ever had a problem with the Federal Bureau of Investigation or United States Park Police or have you ever been a party to a legal action involving one of those agencies? *[If there are any affirmative responses:]*

a. What was the nature of the problem or the legal action?

b. Is there anything about the experience that would cause you not to credit the testimony of an employee from such an agency?

c. Is there anything about the experience that would make you unable to be fair and impartial to both sides of this case?

10. Have you, any family member, or close friend ever been a witness in a court proceeding? *[If there are any affirmative responses:]*

a. What was the nature of the court proceeding?

b. Was the experience a satisfactory one?

c. Is there anything about the experience that would make you unable to be fair and impartial to both sides of this case?

11. Have you, any family member, or close friend ever received any legal training or been employed in a law office? *[If there are any affirmative responses:]*

a. What was the nature of the training or employment?

b. Is there anything about the experience that would make you unable to be fair and impartial to both sides of this case?

12. Do you know any of the other members of the panel from which the jury will be chosen?

13. In a federal criminal trial, jurors are required to take a solemn oath that they will try the case and render a verdict based solely on the evidence and according to the legal instructions of the Court. Is there anyone who could not or would not take such an oath?

1           14. In a federal criminal trial, jurors are required to render a judgment on the  
2 conduct of the defendant. Is there anyone who, for moral, philosophical, religious or  
3 faith-based reasons, cannot or will not pass judgment on another person?

4           15. Do any of you have any moral, philosophical, or religious principles that  
5 make you reluctant to serve on a criminal jury?

6           16. In a federal criminal trial, the jury is responsible for determining the facts of  
7 the case and must accept the law as I explain it through instructions to the jury. A juror is  
8 bound by the legal instructions I provide and cannot substitute his or her own notions of  
9 what they think the law is or should be. Is there anyone who could not or would not  
10 accept the duty to follow the law based on the instructions I give the jury?

11           17. In a federal criminal trial the jury has no part in determining what sentence  
12 is imposed in the event a defendant is found guilty. Is there anyone who does not  
13 understand that or would be unable to accept the fact that punishment is for the court and  
14 not the jury to decide?

15           18. The law does not permit jurors to be governed by sympathy, prejudice, or  
16 public opinion. Both the accused and the public expect that juror will carefully and  
17 impartially consider all the evidence in this case, follow the law as stated by the Court,  
18 and reach a just verdict regardless of the consequences. Is there anyone who could not or  
19 would not do that?

20           19. Is there anyone who knows of any reason whatever why he or she could not  
21 sit as a juror in this case with absolute impartiality to both sides?

22           20. Do you have any strong feelings, one way or the other, about the fairness or  
23 equality of the American court system?

24           21. The government has the burden to prove the defendant guilty beyond a  
25 reasonable doubt. The law does not require the government prove its case beyond all  
26 doubt. The law recognizes that the human mind always can conceive of some doubt as to  
27 any proposition:

28           a. Would any of you require the government to prove its case beyond

1                   all doubt before you would vote for a verdict of guilty?

2                   b.     Is there anyone who thinks the burden beyond a reasonable doubt is  
3                   too heavy or that it is asking too much for the government to meet  
4                   this burden?

5           22.     In this case, the government must prove that the defendant knowingly or  
6 intentionally possessed controlled substances. Since jurors cannot read a defendant's  
7 mind to see his intent, you can rely, in part, on circumstantial evidence. Therefore, the  
8 government will ask you to find the intent of the defendant from all of the surrounding  
9 facts and circumstances presented at trial. Do you have any hesitancy in basing your  
10 verdict, whether guilty or not guilty, upon circumstantial evidence?

11           23.     Have you, or any member of your household, ever made any claim against  
12 the federal government or, has the federal government ever made any claim against you  
13 or any member of your household? *[If there are any affirmative responses:]*

14                   a.     What was the nature of the claim?

15                   b.     Was the matter resolved satisfactorily, in your opinion?

16                   c.     Do you feel that representatives of the federal government acted  
17 fairly and courteously in resolving the matter?

18                   d.     As a result of that matter, do you feel any resentment toward the  
19 federal government in this case?

20           24.     Do you know of any reason, whether previously discussed or not, which  
21 might prevent you from serving as a fair and impartial juror in this case?

22           25.     All of you see Ms. Mays at defense counsel table. ” Do any of you find yourself  
23 thinking that she must have done something wrong, or else the government would not be  
24 prosecuting her?

25           26.     Is anyone having a hard time sitting here firmly convinced that Ms. Mays is  
26 innocent?

27           27.     Ms. Mays is presumed to be innocent unless she is proven guilty beyond a  
28 reasonable doubt. How many of you would like to hear her side of the story?

28. How many of you ever heard of a person being accused of a crime by the government that they did not do?

29. On a scale of 1-10, 10 being the strongest, how important is it to you that you hear from Ms. Mays during this trial?

30. Is there anyone who would have a hard time voting not guilty for a defendant that they hadn't heard from?

31. Have you ever applied for a job or worked for a law enforcement agency or in the military or security field? Do any of you have close relatives who have applied for a job or worked for a law enforcement agency or in the military field? What about any federal agencies?

32. You will soon hear that there are several law enforcement officers who will testify in this case. Do you think that you might be more likely to believe the testimony of a uniformed law enforcement officer than a regular citizen? Would you give their testimony any greater weight or credibility, no matter how slight, than that of the defendant?

33. Have you ever been the victim of a crime? How do you think that experience would affect your jury service?

34. Have you ever had a negative experience with drugs, drug abuse, or drug addiction that would make it difficult for you to be a juror in a case involving drugs?

35. Has anyone in your family been harmed by the use of illegal drugs?

36. Do you have strong feelings about the use of illegal drugs?

37. How do you feel about support groups such as Mothers Against Drunk Drivers, Narcotics Anonymous, and the like?

Dated: March 18, 2008

Respectfully submitted,

BARRY J. PORTMAN  
Federal Public Defender

/S/

ELIZABETH M. FALK  
Assistant Federal Public Defender